



Order Filed on May 12, 2022  
by Clerk  
U.S. Bankruptcy Court  
District of New Jersey

Jonathan Schwalb, Esq.  
Friedman Vartolo LLP  
85 Broad Street, Suite 501  
New York, New York 10004  
Attorneys for Fay Servicing, LLC as service for  
Wilmington Savings Fund Society, FSB, not in its  
individual capacity but solely as Owner Trustee of CIM  
Trust 2021-NR2  
P: (212) 471-5100  
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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

-----X  
IN RE:

Todd Swillinger  
Kathleen Y. Fong-Swillinger

Debtors

:  
: CASE NO.: 20-21428-CMG  
:  
: CHAPTER: 13  
:  
: HON. JUDGE.:  
: Christine M. Gravelle  
:  
: Hearing Date:  
: 4/20/22  
-----X

**CONSENT ORDER RESOLVING CREDITOR'S CERTIFICATION OF DEFAULT**

The consent order set forth on the following pages, numbered two (2) through three (3), is hereby  
**ORDERED.**

**DATED: May 12, 2022**

\_\_\_\_\_  
Honorable Christine M. Gravelle  
United States Bankruptcy Judge



Applicant: Fay Servicing, LLC as service for Wilmington Savings Fund Society, FSB, not in its individual capacity but solely as Owner Trustee of CIM Trust 2021-NR2  
Applicant's Counsel: Friedman Vartolo LLP  
Debtor's Counsel: Robert C. Nisenson, LLC  
Property (Collateral): 99 Bayberry Drive, Somerset, NJ 08873  
Relief Sought:  
• Relief from Automatic Stay

For good cause shown, it is **ORDERED** that Applicant's Motion is resolved, subject to the following conditions:

1. Status of post-petition arrearages:

- ☐ The Debtor(s) is/are overdue for \_\_\_ months, from \_\_\_\_\_ to \_\_\_\_\_
- ☐ The Debtor(s) is/are overdue for \_\_\_ payments at \_\_\_\_\_ per month.
- ☐ The Debtor(s) is/are due for \_\_\_\_\_ in accrued late charges.
- ☐ The Debtor(s) is/are due for \_\_\_\_\_ in attorney's fees and costs.
- ☐ Applicant acknowledges suspense funds in the amount of \$0.00

Total Arrearages Due: \$ 0.00

2. Debtor(s) must cure all post-petition arrearages, as follows:

- ☐ Immediate payment shall be made in the amount of \_\_\_\_\_. Payment shall be made no later than \_\_\_\_\_

☒ Beginning on 04/01/2022, regular monthly mortgage payments shall continue to be made per terms of Note, Mortgage and/or payment change notices.

- ☐ Beginning on \_\_\_\_\_, additional monthly cure payments shall be made in the amount of \_\_\_\_\_ for \_\_\_\_\_ months.

- ☐ The amount of \_\_\_\_\_ shall be capitalized in the debtor's Chapter 13 plan.

Said amount shall be set up on Trustee's ledger as a separate Claim. Debtor(s) shall file a Modified Plan within 10 days from the entry of this Order to account for the additional arrears to be paid to the secured creditor via Chapter 13 Plan and to adjust monthly payments to the Chapter 13 Trustee accordingly.



3. Payments to the Secured Creditor shall be made to the following address:

Payments: Fay Servicing, LLC  
PO Box 814609  
Dallas, TX 75381-4609

4. In the event of default:

☒ Should the Debtor(s) fail to make any of the above captioned payments, or if any regular monthly mortgage payment commencing after the cure of the post petition delinquency is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor(s), and Debtor('s) attorney and the court shall enter an Order granting relief from the Automatic Stay. Should the default occur post discharge and/or post the Bankruptcy Case being administratively closed, Secured Creditor shall be free to seek its state court rights and remedies without any further Certification of Default, Order or Hearing from the Bankruptcy Court.

☒ In the event the Debtor(s) converts to a Chapter 7 during the pendency of this bankruptcy case, the Debtor(s) shall cure all arrears within ten (10) days from the date of conversion in order to bring the loan contractually current. Should the Debtor(s) fail to bring the loan contractually current, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor(s), and Debtor('s) attorney and the court shall enter an Order granting relief from the Automatic Stay.

☒ This agreed order survives any loan modification agreed to and executed during the instant bankruptcy. If any regular mortgage payment due after the execution of a loan modification is more than thirty (30) days late, counsel shall file a Certification of Default with the Court, a copy of the Certification shall be sent to the Chapter 13 Trustee, the Debtor(s), and Debtor('s) attorney and the court shall enter an Order granting relief from the Automatic Stay



5. Award of Attorney's Fees:

The Applicant is awarded attorney's fees of \$200.00.

The fees and costs are payable:

- ☐ Attorney's fees and costs have been included in the Consent Order.
- ☒ Through the Chapter 13 plan. The fees/costs shall be set up as a separate claim to be paid by the Standing Trustee and shall be paid as an administrative claim.
- ☐ To the Secured Creditor within \_\_\_\_\_ days
- ☐ Attorney's fees are not awarded.
- ☐ Movant reserves its right to file a Post-Petition Fee Notice for fees and costs incurred in connection with the Motion for Relief.

The undersigned hereby consent to the form and entry of the foregoing order.



Robert C Nisenson, Esq.  
*Attorney for Debtor*

/s/ Jonathan Schwalb, Esq.

Jonathan Schwalb, Esq.  
*Attorney for Secured Creditor*



In re:  
Todd Swillinger  
Kathleen Y. Fong-Swillinger  
Debtors

Case No. 20-21428-CMG  
Chapter 13

## CERTIFICATE OF NOTICE

District/off: 0312-3  
Date Rcvd: May 12, 2022

User: admin  
Form ID: pdf903

Page 1 of 2  
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on May 14, 2022:

Recip ID	Recipient Name and Address
db/jdb	+ Todd Swillinger, Kathleen Y. Fong-Swillinger, 99 Bayberry Drive, Somerset, NJ 08873-4212

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: May 14, 2022

Signature: /s/Gustava Winters

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on May 12, 2022 at the address(es) listed below:

Name	Email Address
Albert Russo	docs@russotrustee.com
Denise E. Carlon	on behalf of Creditor U.S. BANK NATIONAL ASSOCIATION NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY IN ITS CAPACITY AS INDENTURE TRUSTEE OF CIM TRUST 2018-NR1 dcarlon@kmlawgroup.com, bkgroup@kmlawgroup.com
Jonathan C. Schwalb	on behalf of Creditor Fay Servicing LLC as servicer for Wilmington Savings Fund Society, FSB, not in its individual capacity but solely as Owner Trustee of CIM Trust 2021-NR2 bankruptcy@friedmanvartolo.com
Kyle Anthony Livingstone	on behalf of Creditor Quailbrook Phase 1B Townhomes Association Inc. klivingstone@theassociationlawyers.com
Nicole B. LaBletta	on behalf of Creditor U.S. Bank National Association et al nlabletta@lablettawalters.com tharalla@lablettawalters.com



District/off: 0312-3

User: admin

Page 2 of 2

Date Rcvd: May 12, 2022

Form ID: pdf903

Total Noticed: 1

Robert C. Nisenson

on behalf of Debtor Todd Swillinger r.nisenson@rcn-law.com  
doreen@rcn-law.com;g2729@notify.cincompass.com;nisensonrr70983@notify.bestcase.com

Robert C. Nisenson

on behalf of Joint Debtor Kathleen Y. Fong-Swillinger r.nisenson@rcn-law.com  
doreen@rcn-law.com;g2729@notify.cincompass.com;nisensonrr70983@notify.bestcase.com

U.S. Trustee

USTPRegion03.NE.ECF@usdoj.gov

William H Brosha

on behalf of Creditor Quailbrook Phase 1B Townhomes Association Inc. collections@theassociationlawyers.com

TOTAL: 9